

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 19210B**

Application **27281B** of **Peggy Dickson**  
**3000 James Creek Road, Pope Valley, CA 94567**

filed on **April 6, 1982**, has been approved by the State Water Resources Control Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

**Permittee is hereby authorized to divert and use water as follows:**

1. Source of water

Source	Tributary to
<b>(1) (2) Unnamed Stream</b>	<b>(1) &amp; (2) Pope Creek thence</b>
<b>(3) Pope Creek</b>	<b>Putah Creek (above Lake Berryessa) thence</b>
	<b>Yolo Bypass</b>

2. Location of point of diversion

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (* Projected)	Township	Range	Base and Meridian
<b><u>Reservoir No. 1</u></b> North 369,500 feet and East 1,863,550 feet	SE¼ of SW¼	25	10N	6W	MD
<b><u>Reservoir No. 2,</u></b> North 368,450 feet and East 1,864,100 feet	SE¼ of SW¼	25	10N	6W	MD
<b>Diversion to Offstream Storage:</b> North 366,700 feet and East 1,803,950 feet	SE¼ of NW¼	36	10N	6W	MD

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
<b>Stockwatering, Recreational and Fire Protection</b>	<b>At reservoirs within SE¼ of SW¼</b>	<b>25</b>	<b>10N</b>	<b>6W</b>	<b>MD</b>	
<b>Irrigation</b>	<b>SW¼</b>	<b>25</b>	<b>10N</b>	<b>6W</b>	<b>MD</b>	<b>53</b>
	<b>E½ of NW¼</b>	<b>36</b>	<b>10N</b>	<b>6W</b>	<b>MD</b>	<b>44</b>
	<b>W½ of NE¼</b>	<b>36</b>	<b>10N</b>	<b>6W</b>	<b>MD</b>	<b>58</b>
	<b>NW¼ of SE¼</b>	<b>36</b>	<b>10N</b>	<b>6W</b>	<b>MD</b>	<b>10</b>
				<b>Total</b>		<b>165</b>

The place of use is shown on map on file with the State Water Resources Control Board.

**This permit is subject to the following terms and conditions:**

5. The water appropriated shall be limited to the quantity, which can be beneficially used and shall not exceed 84 acre-feet per annum to be collected from November 1 of each year to April 15 of the succeeding year as follows: 49 acre-feet per annum in Reservoir No. 1 and 35 acre-feet per annum in Reservoir No. 2.

(0000005)

The total quantity of water collected to storage in Reservoir No. 2 under this permit and license issued pursuant to Application 27281A shall not exceed 49 acre-feet per annum.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000051)

The maximum rate of diversion to offstream storage shall not exceed 3 cubic feet per second.

(0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 1995.

(0000007)

8. Complete application of the water to the authorized use shall be made by December 31, 1997.

(0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.

(0000010)

10. Permittee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

(1) Permittee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this permit for noncompliance with the terms of the Agreement.

(2) Diversion of water under this permit shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The permittee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.

3(a) Within one year of the construction of State Reservoir covered by this permit, permittee shall have the capacity of the reservoir surveyed by a registered civil engineer or licensed surveyor. A copy of such survey and area-capacity curve shall be provided to the watermaster and the State Water Resources Control Board.

3(b) Permittee shall install and maintain a device satisfactory to the State Water Resources Control Board capable of measuring water diverted into the reservoirs under this permit. Satisfactory devices shall include: For Pumping Stations (1) In-line flow meter having instantaneous and total flow reading capability, or (2) Proof of a pump test performed within the last 5 years together with official monthly power consumption records for the electric meter serving the pump. For Gravity Diversion: A weir, flume, or other flow measuring device that is properly installed, or a flow rating curve established by volumetric measurements.

4(a) Permittee shall install and properly maintain in the reservoirs staff gages, satisfactory to the watermaster and the State Water Resources Control Board, for the purpose of determining water levels in the reservoirs. Permittee shall record the staff gage readings on October 1 of each year and April 30 of the succeeding year, or such other period as may be specified with written notice to the permittee by the watermaster.

4(b) Permittee shall record monthly diversion to offstream storage amounts from October 1 of each year to April 30 of the succeeding year, or such other period as may be specified with written notice by the watermaster.

(5) Permittee shall report to the watermaster annually, all diversions under this permit by September 1 of each year on forms approved by the watermaster.

(6) Permittee shall allow the watermaster reasonable access to the project covered by this permit to inspect measuring equipment and to observe compliance with these permit terms and conditions, upon 48-hour prior notice and upon such reasonable conditions as permittee may prescribe.

(7) Permittee is hereby put on notice that there may be years when diversion of water under this permit will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this permit, and that releases of stored water may be required.

(8) Permittee is hereby put on notice that the waiver of priority granted by Reclamation and Solano County Water Agency provides that in the event Allowable Depletion is exceeded in any year, water diverted to storage that year shall be released and/or direct diversions shall be curtailed during the ensuing season(s), when applicable, to the extent necessary to bring the Allowable Depletion into compliance, in the following order:

- a. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights in excess of 120 percent of that water right holder's previous five-year average, in reverse order of water right priority.
- b. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights above the previous five-year average diversion, in reverse order of priority.
- c. All remaining water directly diverted and/or diverted to storage that year by holders of Post-Reservation Water Rights in reverse order of priority.

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1 permittee shall have three years, starting in the next Accumulation Season, to make up or repay permittee's excess diversions, or (2) does not reach 640,000 acre-feet of storage as of May 1, permittee shall have one year, starting in the next Accumulation Season, to make up or repay permittee's excess diversions. In the event that Lake Berryessa spills at anytime prior to full payback of excess depletion, permittee shall be excused from any further obligation for repayment of the overage.

(10) Permittee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

(11) Permittee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the permit.

(12) Permittee is hereby put on notice of permittee's right, upon reasonable prior notice, to inspect and to copy, at permittee's own expense, all records and reports of the watermaster.

(13) Solely for purposes of administering Post-Reservation Depletion, the average annual depletion assigned to this project is 84 acre-feet per annum as calculated by the watermaster using information described in Exhibit C of the Condition 12 Settlement Agreement. Permittee shall notify the watermaster of any change in crop type, acreage irrigated, and irrigation method. Any change in water usage which results in an increase in average annual depletion of more than 10 percent for non-weather related reasons, as determined by the watermaster, will require filing a new water right application. (Agreement pp. 13-15, Exhibit E)

Inclusion in the permit of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

The State Water Resources Control Board (SWRCB) shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public Trust Doctrine over this permit to delete, revise, amend, or adopt new terms or conditions to: (1) implement the March 10, 1995, Condition 12 Settlement Agreement and any amendments to the Agreement and (2) make the terms or conditions consistent with any order of the Super Court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0800899)

No water shall be diverted under this permit unless the permittee has installed a device, as may be specified by the Agreement, that is capable of measuring the diversions under this permit such that the watermaster can calculate the Annual Depletion for this project. Said measuring device shall be properly maintained.

(0060062)

11. For the protection of fish and wildlife, permittee shall during the period: from November 1 through May 5 bypass a minimum of 10 cubic feet per second of the flow of Pope Creek. The total streamflow shall be bypassed whenever it is less than the designated amount.

(0000060)

12. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flow(s) required by the conditions of this permit. Said measuring device shall be properly maintained.

(0000062)

13. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

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**14. All permits issued by the State Water Resources Control Board are subject to the following terms and conditions:**

(A) Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(B) The amount authorized for appropriation may be reduced in the license if investigation warrants.

(C) Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.

(D) Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(E) Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

***This permit is issued and permittee takes it subject to the following provisions of the Water Code:***

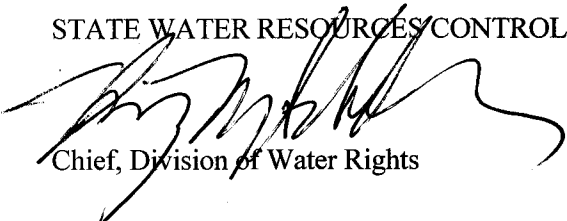
*Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.*

*Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.*

*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

**Dated: JUL 15 1999**

STATE WATER RESOURCES CONTROL BOARD

  
Chief, Division of Water Rights